



February 2, 2023

HOUSE BILL No. 1436

DIGEST OF HB 1436 (Updated February 1, 2023 4:08 pm - DI 140)

Citations Affected: IC 13-11; IC 13-18; IC 16-20; IC 16-41.

Synopsis: Onsite sewage systems and holding tanks. Defines "alternative residential onsite sewage system" as a system that: (1) is designed for the collection, storage, treatment, and disposal of sewage from the dwelling of one or two families; (2) is installed in a place that is not suitable for a standard septic system; (3) is a replacement for a standard septic system that did not function properly; (4) is based on a design or plan approved by the National Sanitation Foundation; (5) employs advanced treatment components not used in standard septic systems; (6) discharges treated effluent above ground; and (7) requires more frequent testing and maintenance than a standard septic system. Requires the environmental rules board to adopt rules, including emergency rules, to establish standards and specifications, effluent limitations, and inspection, maintenance, testing, service, and repair requirements for alternative residential onsite sewage systems. Requires the department of environmental management (IDEM) to issue a National Pollutant Discharge Elimination System general permit that will authorize the installation and use of alternative residential onsite sewage systems. Requires a local health department to grant a permit for an alternative residential onsite sewage system if certain requirements are met, including: (1) the permit applicant has obtained coverage under the general permit; (2) the applicant affirms in writing that the alternative residential onsite sewage system will be installed and maintained in accordance with the rules of the environmental rules board; and (3) the permit applicant has filed an affidavit for recording in the county recorder's office that will provide
(Continued next page)

Effective: Upon passage; July 1, 2023.

Engleman, Miller D

January 17, 2023, read first time and referred to Committee on Environmental Affairs.
February 2, 2023, reported — Do Pass. Referred to Committee on Ways and Means pursuant to Rule 127.

HB 1436—LS 7220/DI 55



Digest Continued

notice to any prospective transferee of the applicant's property that the transferee will be subject to the ongoing inspection, maintenance, testing, service, and repair requirements applying to alternative residential onsite sewage systems. Provides that if the owner of property served by an alternative residential onsite sewage system fails to satisfy any inspection, maintenance, testing, service, or repair requirement, the local health department shall have the needed work done and shall bill the property owner for the cost. Provides that these costs, plus fees, if unpaid, become a lien against the property. Provides that septage that originates from a residential or commercial source may be held in one or more holding tanks of not more than 10,000 gallons until removed and transported from the site. Establishes requirements for septage holding tanks. Requires a permit from the local health department for the operation of a septage holding tank. Requires a septage tank owner to enter into a written contract with a septage management vehicle operator for regular removal of septage from the tank, to provide a copy of the contract to the local health department, and to provide proof to the local health department that the tank owner is regularly paying for the removal of septage from the holding tank. Requires a local health department to report to IDEM concerning the septage tanks in its jurisdiction.

HB 1436—LS 7220/DI 55



February 2, 2023

First Regular Session of the 123rd General Assembly (2023)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in *this style type*, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2022 Regular Session of the General Assembly.

HOUSE BILL No. 1436

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 13-11-2-7.2 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2023]: **Sec. 7.2. "Alternative residential onsite sewage system",**
4 **for purposes of IC 13-18-28, has the meaning set forth in**
5 **IC 13-18-28-1.**

6 SECTION 2. IC 13-11-2-218.3 IS ADDED TO THE INDIANA
7 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
8 [EFFECTIVE JULY 1, 2023]: **Sec. 218.3. "Standard septic system",**
9 **for purposes of IC 13-18-28, has the meaning set forth in**
10 **IC 13-18-28-2.**

11 SECTION 3. IC 13-18-12-3, AS AMENDED BY P.L.159-2011,
12 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
13 JULY 1, 2023]: **Sec. 3. (a)** The board shall initiate, in accordance with
14 IC 13-15, a septage management permit program for all persons who
15 offer to perform or are performing septage management services.

HB 1436—LS 7220/DI 55



1 (b) A permit from the department may not be required for the
2 ownership or operation of one (1) or more holding tanks described
3 in IC 16-41-25-9 in which septage originating from a residential or
4 commercial source is held until it is removed and transported from
5 the site of the holding tanks by septage management vehicles.
6 However:

7 (1) the board may adopt rules under IC 4-22-2 and
8 IC 13-14-9; or

9 (2) the department may establish guidelines;
10 concerning the reports to be provided to the department by local
11 health departments under IC 16-41-25-9(h). The rules or guidelines
12 may specify the content to be included in the reports and the
13 frequency at which the reports must be provided.

14 SECTION 4. IC 13-18-28 IS ADDED TO THE INDIANA CODE
15 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
16 UPON PASSAGE]:

17 **Chapter 28. Alternative Residential Onsite Sewage Systems**

18 **Sec. 1. As used in this chapter, "alternative residential onsite
19 sewage system" means a system that:**

20 (1) is designed for the collection, storage, treatment, and
21 disposal of sewage from the dwelling of one (1) or two (2)
22 families;

23 (2) is installed in a place that, because of soil type, space
24 restrictions, or another reason, is not suitable for a standard
25 septic system;

26 (3) is a replacement for a standard septic system that was in
27 place in the same site but did not function properly;

28 (4) is based on a design or plan approved by the National
29 Sanitation Foundation;

30 (5) employs advanced treatment components not used in
31 standard septic systems, including a disinfection component
32 that uses chlorine, ultraviolet light, or ozone to reduce the
33 concentration of the pathogenic constituents of the effluent to
34 an acceptable level before it is discharged;

35 (6) discharges the treated effluent above ground; and

36 (7) because of its design and components, requires more
37 frequent testing and maintenance than a standard septic
38 system.

39 **Sec. 2. As used in this chapter, "standard septic system" means
40 a system that:**

41 (1) is designed for the treatment and disposal of wastewater
42 from a residence; and



- 1 **(2) consists of:**
 2 **(A) a septic tank in which organic matter is digested; and**
 3 **(B) a drainfield in which the effluent is slowly released into**
 4 **the soil.**
- 5 **Sec. 3. (a) The environmental rules board shall, under IC 4-22-2**
 6 **and IC 13-14-9, adopt rules, including emergency rules adopted in**
 7 **the manner provided by IC 4-22-2-37.1, concerning alternative**
 8 **residential onsite sewage systems. Notwithstanding**
 9 **IC 4-22-2-37.1(g), the emergency rules that are adopted under this**
 10 **subsection and in the manner provided by IC 4-22-2-37.1 expire on**
 11 **the date on which rules that supersede the emergency rules are**
 12 **adopted by the board under this subsection and IC 4-22-2-24**
 13 **through IC 4-22-2-36.**
- 14 **(b) The rules adopted under this section must establish:**
- 15 **(1) standards and specifications for alternative residential**
 16 **onsite sewage systems;**
- 17 **(2) effluent limitations for alternative residential onsite**
 18 **sewage systems that are necessary to ensure that the effluent**
 19 **discharged from those systems does not pose an unreasonable**
 20 **risk to human health or the environment;**
- 21 **(3) minimum qualifications for individuals or entities that**
 22 **install and maintain alternative residential onsite sewage**
 23 **systems, including the requirement that the individuals**
 24 **receive training provided or approved by a manufacturer of**
 25 **alternative residential onsite sewage systems or of components**
 26 **used in alternative residential onsite sewage systems; and**
- 27 **(4) requirements for the inspection, maintenance, testing,**
 28 **service, and repair of alternative residential onsite sewage**
 29 **systems, including:**
- 30 **(A) the establishment or adoption of mandatory inspection**
 31 **and maintenance procedures;**
- 32 **(B) requirements as to when and how often the mandatory**
 33 **inspection and maintenance procedures must be**
 34 **performed;**
- 35 **(C) a requirement that effluent discharged from an**
 36 **alternative residential onsite sewage system be:**
- 37 **(i) sampled at least once every three (3) months; and**
 38 **(ii) tested in a laboratory approved by the department**
 39 **under the rules to ensure that the effluent complies with**
 40 **the effluent limitations established under subdivision (2);**
 41 **and**
- 42 **(D) a requirement that the service or repair of an**



1 alternative residential onsite sewage system, if needed, be
 2 performed by an individual or entity meeting the
 3 qualifications established by the board in the rules.

4 **Sec. 4.** Not more than sixty (60) days after the rules adopted
 5 under section 3 of this chapter take effect, the commissioner or the
 6 department shall issue a National Pollution Discharge Elimination
 7 System general permit in accordance with 40 CFR 122.26 that
 8 authorizes the installation and use of alternative residential onsite
 9 sewage systems.

10 SECTION 5. IC 16-20-10 IS ADDED TO THE INDIANA CODE
 11 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 2023]:

13 **Chapter 10. Alternative Residential Onsite Sewage Systems**

14 **Sec. 1.** As used in this chapter, "alternative residential onsite
 15 sewage system" has the meaning set forth in IC 13-18-28-1.

16 **Sec. 2. (a) If:**

17 (1) an application is submitted to a local health department
 18 for a permit for a residential onsite sewage system;

19 (2) the plans for the residential onsite sewage system:

20 (A) provide for the system to be an alternative residential
 21 onsite sewage system; and

22 (B) meet the standards and specifications for alternative
 23 residential onsite sewage systems established in the rules
 24 adopted under IC 13-18-28-3;

25 (3) the applicant affirms in writing that:

26 (A) the alternative residential onsite sewage system will be
 27 installed by an individual or entity that meets the
 28 minimum qualifications for alternative residential onsite
 29 sewage system installers that are established in the rules
 30 adopted under IC 13-18-28-3;

31 (B) the alternative residential onsite sewage system will be
 32 maintained:

33 (i) by individuals or entities that meet the minimum
 34 qualifications for performers of maintenance on
 35 alternative residential onsite sewage systems that are
 36 established in the rules adopted under IC 13-18-28-3;
 37 and

38 (ii) in accordance with the periodic maintenance
 39 schedule and other requirements established by the rules
 40 adopted under IC 13-18-28-3; and

41 (C) effluent discharged from the alternative residential
 42 onsite sewage system will be:



- 1 (i) sampled at least once every three (3) months; and
- 2 (ii) tested in a laboratory approved by the department of
- 3 environmental management;
- 4 according to the rules adopted under IC 13-18-28-3;
- 5 (4) the installation and operation of the alternative residential
- 6 onsite sewage system are covered under the general permit
- 7 for the installation and use of alternative residential onsite
- 8 sewage systems that is issued under IC 13-18-28-4; and
- 9 (5) the permit applicant has filed an affidavit concerning the
- 10 alternative residential onsite sewage system for recording in
- 11 the county recorder's office of the county as required by
- 12 section 3 of this chapter;

13 the local health department shall grant the permit.

14 **Sec. 3. (a)** A person applying to a local health department for a
15 permit for an alternative residential onsite sewage system must file
16 an affidavit for recording in the county recorder's office of the
17 county.

18 (b) The affidavit filed under this section must:

- 19 (1) be filed in the deed records of the county;
- 20 (2) state that an application for an alternative residential
- 21 onsite sewage system has been submitted to the local health
- 22 department;
- 23 (3) state that the alternative residential onsite sewage system,
- 24 if constructed or installed in the property to which the
- 25 affidavit relates, will be subject to continuing inspection,
- 26 maintenance, and testing requirements under the rules of the
- 27 environmental rules board as long as the residential onsite
- 28 sewage system is in use, regardless of any transfer of
- 29 ownership of the property;
- 30 (4) clearly provide notice to any prospective transferee of the
- 31 property to which the affidavit relates that the prospective
- 32 transferee will be subject to the requirements described in
- 33 subdivision (3) after the transfer of the property to the
- 34 prospective transferee; and
- 35 (5) state that the failure of a property owner to satisfy the
- 36 continuing inspection, maintenance, and testing requirements
- 37 or to remedy a problem with the alternative residential onsite
- 38 sewage system may lead to, or may already have been the
- 39 cause of, the imposition of a lien against the property.

40 (c) The owner of the property to which an affidavit recorded
41 under this section relates may have the affidavit removed from the
42 deed records of the county if:



- 1 **(1) the alternative residential onsite sewage system:**
 2 **(A) is not constructed or installed in the property to which**
 3 **the affidavit relates; or**
 4 **(B) is constructed or installed but:**
 5 **(i) the alternative residential onsite sewage system is**
 6 **removed from the property; or**
 7 **(ii) use of the alternative residential onsite sewage system**
 8 **is permanently ended; and**
 9 **(2) any lien imposed against the property under section 5 of**
 10 **this chapter is released and discharged.**

11 **(d) The county recorder may charge a reasonable fee for:**

- 12 **(1) the recording of an affidavit; and**
 13 **(2) the removal of an affidavit from the deed records of the**
 14 **county;**

15 **under this section.**

16 **Sec. 4. A permit issued by a local health department for an**
 17 **alternative residential onsite sewage system is subject to the**
 18 **following conditions:**

19 **(1) The alternative residential onsite sewage system must be**
 20 **constructed in compliance with the rules adopted by the**
 21 **environmental management board under IC 13-18-28-3.**

22 **(2) The alternative residential onsite sewage system must be**
 23 **operated and maintained in compliance with the rules**
 24 **adopted by the environmental management board under**
 25 **IC 13-18-28-3, including the requirements of the rules**
 26 **concerning:**

27 **(A) mandatory inspection and maintenance; and**

28 **(B) the sampling and testing of effluent discharged from an**
 29 **alternative residential onsite sewage system at least once**
 30 **every three (3) months.**

31 **(3) If an inspection of the alternative residential onsite sewage**
 32 **system or the sampling and testing of effluent from the**
 33 **alternative residential onsite sewage system discloses that the**
 34 **alternative residential onsite sewage system is not in**
 35 **compliance with the effluent limitations established by the**
 36 **rules adopted by the environmental management board under**
 37 **IC 13-18-28-3 or is otherwise in need of maintenance or**
 38 **repair, the owner of the property in which the alternative**
 39 **residential onsite sewage system is located shall promptly**
 40 **have the alternative residential onsite sewage system serviced**
 41 **or repaired by an individual or entity qualified to perform the**
 42 **service or repair work under the rules adopted by the**



1 environmental management board under IC 13-18-28-3.

2 (4) If the property owner fails to satisfy any requirements
3 concerning the mandatory inspection and maintenance of the
4 alternative residential onsite sewage system, the sampling and
5 testing of effluent from the alternative residential onsite
6 sewage system, or the servicing or repair of the alternative
7 residential onsite sewage system, the local health department:

8 (A) shall have the alternative residential onsite sewage
9 system inspected, maintained, tested, serviced, or repaired
10 by an individual or entity qualified to perform the
11 inspection, maintenance, testing, service or repair work
12 under the rules adopted by the environmental management
13 board under IC 13-18-28-3; and

14 (B) shall bill the property owner for the cost of the
15 inspection, maintenance, testing, service, or repair work
16 plus a reasonable sum to defray the expenses of the local
17 health department in arranging for the service or repair
18 work.

19 Sec. 5. (a) A local health department shall enforce payment
20 under this section of costs accrued under section 4(4)(B) of this
21 chapter.

22 (b) As often as the local health department determines necessary
23 in a calendar year, the local health department shall prepare either
24 of the following:

25 (1) A list of the costs accrued under section 4(4)(B) of this
26 chapter that includes:

27 (A) the name of the owner of each lot or parcel of real
28 property as to which costs are delinquent;

29 (B) a description of the lot or parcel of real property, as
30 shown in the records of the county auditor; and

31 (C) the amount of the delinquent costs.

32 (2) An individual instrument for each lot or parcel of real
33 property on which the costs accrued under section 4(4)(B) of
34 this chapter are delinquent.

35 (c) An officer of the local health department shall record a copy
36 of each list or each individual instrument with the county recorder.
37 The county recorder shall charge a fee for recording the list or
38 each individual instrument in accordance with the fee schedule
39 established in IC 36-2-7-10. The officer shall mail by certified mail,
40 or by another delivery service providing proof of delivery, to each
41 property owner on the list or on an individual instrument a notice
42 stating that a lien against the owner's property has been recorded.



1 A service charge of five dollars (\$5), which is in addition to the
2 recording fee charged under this subsection, shall be added to each
3 copy of each list or instrument that is recorded under this
4 subsection.

5 (d) Using the lists and instruments prepared under subsection
6 (b) and recorded under subsection (c), the local health department
7 shall, not later than ten (10) days after the list or each individual
8 instrument is recorded under subsection (c), certify to the county
9 auditor a list of the unpaid liens for collection with the next May
10 installment of property taxes. The county and its officers and
11 employees are not liable for any material error in the information
12 on this list.

13 (e) Upon receipt of the list under subsection (c), the county
14 auditor shall add a fifteen dollar (\$15) certification fee for each lot
15 or parcel of real property on which costs are delinquent. The fee is
16 in addition to all other fees and charges. The county auditor shall
17 immediately enter on the tax duplicate for the district the
18 delinquent costs, fees, and charges that are due not later than the
19 due date of the next May installment of property taxes. The county
20 treasurer shall include any unpaid costs, fees, and charges of each
21 lot or parcel of property at the time the next cycle's property tax
22 installment is billed.

23 (f) The local health department shall release any recorded lien
24 when the delinquent costs, fees, and charges have been fully paid.
25 The county recorder shall charge a fee for releasing the lien in
26 accordance with IC 36-2-7-10.

27 (g) After certification of liens under subsection (d), the local
28 health department may not collect or accept delinquent costs, fees,
29 and charges from property owners whose property has been
30 certified to the county auditor.

31 (h) If the delinquent costs, fees, and charges are not paid, they
32 shall be collected by the county treasurer in the same way that
33 delinquent property taxes are collected.

34 (i) At the time of each semiannual tax settlement, the county
35 treasurer shall certify to the county auditor all costs, fees, and
36 charges that have been collected. The county auditor shall deduct
37 the service charges and certification fees collected by the county
38 treasurer and pay over to the officer the remaining amounts due
39 the local health department. The county treasurer shall retain the
40 service charges and certification fees that have been collected and
41 shall deposit them in the county general fund.

42 Sec. 6. IC 16-20-9-1 does not apply to this chapter.



1 SECTION 6. IC 16-41-25-9 IS ADDED TO THE INDIANA CODE
2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2023]: **Sec. 9. (a) As used in this section, "septage" means human**
4 **excreta, wastewater, scum, sludge, and other content introduced**
5 **through incidental or accidental seepage that is removed from**
6 **domestic septic tanks, holding tanks, privies, seepage pits,**
7 **cesspools, compost toilets, or portable sanitary units.**

8 **(b) As used in this section, "septage management vehicle"**
9 **means a vehicle that is:**

10 **(1) used for:**

11 **(A) the removal of septage from holding tanks or sewage**
12 **disposal systems; and**

13 **(B) the transportation of the septage to wastewater**
14 **treatment plants or other facilities for treatment,**
15 **temporary storage, or disposal; and**

16 **(2) subject to regulation under IC 13-18-12 and 327 IAC 7.1.**

17 **(c) Septage that originates from a residential or commercial**
18 **source may be held in one (1) or more holding tanks until it is**
19 **removed and transported from the site of the holding tanks by a**
20 **septage management vehicle. A holding tank to which this**
21 **subsection applies may not have a capacity of more than ten**
22 **thousand (10,000) gallons.**

23 **(d) A holding tank used under this section must be:**

24 **(1) designed and equipped so that septage can be cleanly and**
25 **efficiently pumped from the tank into a septage management**
26 **vehicle to be transported from the site of the tank; and**

27 **(2) equipped with a device that will produce an audio and**
28 **visual alarm when the septage in the tank reaches two-thirds**
29 **(2/3) of the tank's capacity.**

30 **(e) A holding tank described in this section may not be used to**
31 **hold septage unless the tank owner has obtained a permit from the**
32 **local health department of the county, city, or multiple county unit**
33 **in which the holding tank is located. To obtain a permit, the owner**
34 **of a holding tank must:**

35 **(1) enter into a written contract with an operator of septage**
36 **management vehicles providing for the removal of septage**
37 **from the holding tank at regular intervals;**

38 **(2) provide a copy of the contract to the local health**
39 **department; and**

40 **(3) commit to providing to the local health department copies**
41 **of receipts or other records proving that the holding tank**
42 **owner is regularly paying the septage management vehicle**



- 1 operator a fee for the removal of septage from the holding
- 2 tank.
- 3 (f) A permit issued to the owner of a holding tank may be
- 4 suspended or revoked, or renewal of the permit may be denied, for:
- 5 (1) a violation of:
- 6 (A) this section;
- 7 (B) a condition stated in the permit; or
- 8 (C) a requirement established under subsection (g); or
- 9 (2) a problem involving the holding tank or the operation of
- 10 the holding tank that creates a risk of harm to human health
- 11 or the environment.
- 12 (g) The local health department of a county, city, or multiple
- 13 county unit may establish requirements:
- 14 (1) concerning the issuance, term, and renewal of permits
- 15 required under subsection (e);
- 16 (2) concerning the design, construction, location, and
- 17 operation of holding tanks described in this section; and
- 18 (3) determining:
- 19 (A) the ways in which a holding tank owner may provide
- 20 the proof; and
- 21 (B) how often the tank owner must provide the proof;
- 22 required under subsection (e)(3).
- 23 (h) In accordance with any rules or guidelines adopted under
- 24 IC 13-18-12-3(b), a local health department that issues permits for
- 25 the use of holding tanks under this section shall report to the
- 26 department of environmental management concerning the holding
- 27 tanks.
- 28 SECTION 7. An emergency is declared for this act.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred House Bill 1436, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to HB 1436 as introduced.)

MORRISON

Committee Vote: Yeas 8, Nays 4

